

## DIVISION 4 OVERLAY DISTRICTS

### 35-330 *Generally*

The overlay zoning districts address special siting, use and compatibility issues which require use and development regulations in addition to those found in the underlying zoning districts. If any regulation in an overlay zoning district requires lower densities, greater Setbacks, or otherwise imposes greater standards than those required by the base zoning district, the more restrictive standard applies.

The zoning designation of property located within an Overlay District shall consist of the regular zone symbol and the overlay district symbol as a suffix. For example, if a parcel is zoned RE and is also located within the Edwards Recharge Zone District, the zoning designation of the property would be RE (ERZD). In effect, the designation of property as being within the Edwards Recharge Zone District places such property in a new zoning district classification and all procedures and requirements for zoning and rezoning must be followed.

### 35-331 *Airport Hazard Overlay District (AHOD)*

*This division is adopted pursuant to the authority conferred by Vernon's Local Government Code, chapter 241. It is hereby found that an airport hazard endangers the lives and property of the users of San Antonio International Airport, Stinson Municipal Airport, Kelly Air Force Base, Randolph Air Force Base and of the occupants of land in the vicinity thereof, and also, if of the obstruction type, such hazard reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of these airports and the public investment therein. Accordingly, it is declared:*

- That the creation or establishment of an airport hazard is a public nuisance and an injury to the communities served by these airports;*
- That it is necessary, in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented; and*
- That the prevention of these hazards should be accompanied, to the extent legally possible, by the exercise of the police power without compensation.*

#### **(a) Development Standards**

##### **(1) Future uses.**

Within any airport hazard area which is within, or extends into, the controlled area of these regulations, no material change in the use of land and no structure or tree shall be erected, altered, planted or

otherwise established at a height greater than two hundred (200) feet above the ground or above a 100 to 1 slope from the nearest point of the nearest runway of any airport unless a permit therefore shall have been applied for and granted. Applications for permits shall be made to the department of building inspections upon a form supplied for this purpose, and by submitting a map of sufficient accuracy and detail to allow an accurate determination of compliance with this division. No permit for a use inconsistent with this division shall be granted unless a variance has been approved in accordance with subsection (a)(4) of this Section. Nothing in the foregoing shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of the height limits established by this division.

**(2) Existing uses.**

No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure or tree to be made or become higher or become a greater hazard to air navigation than it was on the effective date of the ordinance from which this division is derived or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

**(3) Nonconforming structures, natural growths and land uses.**

A permit shall be required before any nonconforming structure, natural growth or land use in the airport hazard area may be altered, repaired, rebuilt, replaced, replanted or relocated. No permit shall be granted that would allow a nonconforming structure, natural growth or land use to be made or become higher, or become a greater hazard to air navigation than it was. Whenever the department of building inspections or administrative agency outside of the City of San Antonio determines that a nonconforming land use has been abandoned or more than eighty (80) percent torn down, damaged, physically deteriorated or decayed, no permit shall be granted that would allow same to be replaced, repaired or re-established unless in full compliance with the height and use restrictions of this division.

**(4) Variances.**

Any person desiring to erect or increase the height of any structure or permit any natural growth or use his property, not in accordance with the regulations prescribed in this division, shall apply to the board of adjustment for a variance from such regulations. Such variances shall be allowed where it is found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship, and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this division. Applications for such action by the board of adjustment shall be made to the director of the department of building inspections if inside the City of San Antonio, or the director of planning if in the city's extra-territorial jurisdiction.

**(5) Federal notification.**

Within any airport hazard area, any person who proposes any construction, alteration or tree growth meeting the following criteria shall give notice to the regional office of the Federal Aviation Administration if and as required by Part 77 of the Federal Aviation Regulations, titled "Objects Affecting Navigable Airspace":

- Any construction or alteration of more than two hundred (200) feet in height above the ground level at its site.

- Any construction or alteration of greater height than an imaginary surface extending upward and outward at any one (1) of the following slopes: (a) for International and Stinson, a slope of 100 to 1 for a horizontal distance of twenty thousand (20,000) feet from the nearest point of the nearest runway; and (b) for military airports, a slope of 50 to 1 for a horizontal distance of ten thousand (10,000) feet from the nearest point of the nearest runway.

Also, any person who proposes to construct, alter, activate or deactivate a civil or joint use, civil/military, airport shall likewise give notice to the Federal Aviation Administration as required by Part 157 of the Federal Aviation Regulations titled "Notice of Construction, Alteration, Activation, and Deactivation of Airports." If a request for a permit or variance is made from any action falling under any of the stated federal notice requirements, final action on the requested permit or variance may, at the discretion of the administrative agency or of the board of adjustment, be deferred until a final determination has been issued by the Federal Aviation Administration. However, in no event shall the requirements of this division be subordinate to a determination of the Federal Aviation Administration.

**(6) Marking and lighting.**

Any permit or variance granted may require the owner of the structure or natural growth in question to install, operate and maintain thereon, at his own expense, such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard. Any lights required under this paragraph shall be engineered and designed for the intended purpose by a recognized manufacturer, and it shall be the responsibility of the owner or any subsequent owner to see that the lights are properly installed and maintained so as to be functioning during darkness and all periods of low visibility, independently of the functioning of other lighting in or on the structure or growth.

**(b) Height-limiting imaginary surfaces, International and Stinson.**

The height restrictions for structures and growths in the airport hazard areas are specified by means of imaginary planes or surfaces in the airspace above the airport hazard areas. Within the controlled area of this section, such surfaces are hereby established in the airspace surrounding each airport protected by this division to define the limit above which any projection of a structure or tree would be considered an airport hazard and thus be prohibited except as otherwise provided by this division. The surfaces are illustrated on the airport hazard zoning maps, which are adopted and made a part of this division, by means of elevation contour lines in a manner similar to the use of topographic contour lines to illustrate the variations in the elevation of natural terrain. Their geometric description is as follows:

**(1) Primary surface.**

The primary surface is centered longitudinally and laterally about the runway, the ends extending two hundred (200) feet beyond the runway ends. The elevation of any point on the primary surface is the same as the nearest point on the runway center line between the runway ends. The width of the primary surface varies according to the existing or planned classification of usage of the most critical end of the individual runways as follows per Part 77 of the Federal Aviation Regulations:

**A. San Antonio International Airport:**

Runway 12R-30L, one thousand (1,000) feet.  
Runway 12L-30R, one thousand (1,000) feet.

Runway 3-21, one thousand (1,000) feet.

B. Stinson Municipal Airport:

Runway 9-27, one thousand (1,000) feet.

Runway 14-32, five hundred (500) feet.

**(2) Approach surface.**

The approach surface is an inclined plane, longitudinally centered on the extended runway center line, which begins at the end of the primary surface, at the same width and elevation, and extends outward and upward at a specific horizontal to vertical slope, at a specific uniform rate of increase in width and for a specific distance as follows:

A. San Antonio International Airport:

Runways 3, 12R, 12, 21, and 30L: 50 to 1 slope for first ten thousand (10,000) feet, thence to a 40 to 1 slope at an ultimate distance of fifty thousand (50,000) feet, at which the width is sixteen thousand (16,000) feet.

Runway 30R: 20 to 1 slope for a distance of five thousand (5,000) feet, at which the width is one thousand five hundred (1,500) feet.

B. Stinson Municipal Airport:

Runway 27: 50 to 1 slope for first ten thousand (10,000) feet, thence at a 40 to 1 slope to an ultimate distance of fifty thousand (50,000) feet, at which the width is sixteen thousand (16,000) feet.

Runway 32: 20 to 1 slope for a distance of five thousand (5,000) feet, at which the width is two thousand (2,000) feet.

Runways 9 and 14: 20 to 1 slope for a distance of five thousand (5,000) feet, at which the width is one thousand two hundred fifty (1,250) feet.

**(3) Transitional surface.**

These surfaces extend outward and upward to a slope of 7 to 1 from the longitudinal edges of the primary surfaces and approach surfaces, measured at right angles to the runway center line and center line extended. These surfaces connect the primary and approach surfaces with the other surfaces described in this section, including other transitional surfaces. Beyond the outer periphery of the conical surfaces, the transitional surfaces extend a maximum horizontal distance of five thousand (5,000) feet from the longitudinal edges of the precision approach surfaces, measured at right angles to the extended runway center line.

**(4) Horizontal surface.**

The horizontal surface is a horizontal plane one hundred fifty (150) feet above the established airport elevation, nine hundred fifty-nine (959) feet above mean sea level for San Antonio International; seven hundred twenty-seven (727) feet above mean sea level for Stinson Airport. The perimeter of the

horizontal surface is constructed by swinging arcs of ten thousand (10,000) feet radius from the center of each end of the primary surfaces of Runways 3-21, 12R-30L and 12L-30R at San Antonio International Airport and Runway 9-27 at Stinson Municipal Airport. The adjacent arcs are then connected by tangent lines.

**(5) Conical surface.**

The conical surface extends outward and upward to a slope of 20 to 1 from the periphery of arid at the same elevation as the horizontal surface. It extends for a horizontal distance of four thousand (4,000) feet, to a height of three hundred fifty (350) feet above established airport elevation.

**(6) Kelly Air Force Base and Randolph Air Force Base.**

In addition to the above described imaginary surfaces, the imaginary surfaces of Kelly Air Force Base and Randolph Air Force Base described by Section 77.28 of Part 77 of the Federal Aviation Regulations, and which extend into the corporate limits of the city, shall be enforceable under these regulations within the corporate limits.

**(c) Height restrictions.**

- (1) Except as otherwise provided in this article, no structure or natural growth shall be erected, altered, increased in height, allowed to grow or maintained in an airport hazard area in excess of the height of the imaginary surface above the structure or natural growth.
- (2) Where more than one (1) imaginary surface or the imaginary surfaces of more than one (1) airport exist in the same area, the more restrictive limitation shall prevail.
- (3) In addition to the height restrictions imposed by the imaginary surfaces, no structure or natural growth shall be erected, altered, increased in height, allowed to grow or maintained in an airport hazard area at such height as would result in the alteration of any flight procedure established by federal aviation authorities.
- (4) If tall construction cranes or other equipment will be used which are higher than a structure or growth which is being erected under a permit granted pursuant to this article, the operator of the cranes or equipment may be required, at the discretion of the authorities in charge of the airport affected, to maintain coordination with air traffic control personnel to keep them informed of his work schedule, to keep the equipment in a lowered position to the maximum extent possible, and to install appropriate hazard marking and/or lighting on the top extremity of the equipment.
- (5) Nothing in this division shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to twenty (20) feet above the surface of the land.
- (6) If the imaginary surface boundaries established above are less restrictive for a specific instance than those specified in the Federal Aviation Regulation Part 77, "Objects Affecting Navigable Airspace" as amended, or any subsequent Federal Aviation Agency criteria, then the criteria shall, in effect, be a part of these regulations and shall be the applicable restriction hereunder.

**(d) Use restrictions.**

Notwithstanding any other provisions of this division no use may be made of land within the airport hazard area in such manner as to:

- (1) Create electrical or visual interference with any electronic facility or instrumentation, wherever located within the airport hazard area, including but not limited to, radio transmitters and receivers, radar installations, landing and navigational aids and weather instruments where such facilities are used in connection with the landing, taking-off and maneuvering of aircraft;
- (2) Make it difficult for flyers to distinguish between airport lights and others;
- (3) Result in glare in the eyes of flyers using the airport;
- (4) Impair visibility in the vicinity of the airport;
- (5) Cause physical objects of any nature to penetrate, however briefly, the air space above the imaginary surfaces established in this article, such objects including, but not limited to kites, balloons, projectiles, rockets, model aircraft, derricks and cranes, unless a special temporary permit be obtained from the authorities in charge of the affected airport;
- (6) Establish or alter privately owned flying fields, strips or heliports, unless found not to be objectionable after a special aeronautical study by federal aviation authorities;
- (7) Create bird strike hazards;
- (8) Otherwise endanger the landing, taking-off, or maneuvering of aircraft.

**(e) *Nonconforming uses.***

**(1) *Not retroactive.***

The regulations prescribed in this division shall not be construed to require changes in land use or the removal, lowering, or other change or alteration of any structure or natural growth in previous lawful existence, but not conforming to the effective date of the ordinance from which this division is derived, or otherwise interfere with the continuance of any previously lawful nonconforming use. Nothing contained in this division shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance from which this division is derived, is diligently prosecuted, and would have otherwise been in legal existence upon completion.

**(2) *Marking and lighting.***

Notwithstanding the preceding provision of this section, the owner of any nonconforming structure or natural growth is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary to indicate to the operators of aircraft in the vicinity of the airport the presence of such flight hazards. Such markers and lights shall be installed, operated and maintained at the expense of the airport desiring such marking and lighting.

**(f) *Administrative agency (inside city limits).***

The department of building inspections of the city is hereby designated as the administrative agency charged with the administration and enforcement of this division. As such, it shall establish administrative procedures for requiring, accepting and subsequently approving or denying applications for airport zoning permits, in accordance with subsection (a) of this section. In this regard, the department of building inspections will withhold any other permits normally issued under its jurisdiction which would allow construction or erection to proceed on any structure which would be in violation of these regulations. The administrative agency shall not have, or exercise any of the powers or duties, which are delegated to the board of adjustment under Vernon's Local Government Code, chapter 241.

**(g) Board of adjustment.**

The board of adjustment of the city is hereby designated to be the board of adjustment for this division, to have and exercise the powers set forth in Vernon's Local Government Code, chapter 241.

**(h) Appeals.**

Any person aggrieved or taxpayer affected by any decision of the administrative agency made in its administration of this division, or any governing body of a political subdivision, which is of the opinion that a decision of such an administrative agency is an improper application of airport hazard zoning regulations may appeal to the board of adjustment under the provisions of Vernon's Local Government Code, chapter 241.

**(i) Judicial review (Inside city limits).**

Any person aggrieved or taxpayer affected by any decision of the board of adjustment which is of the opinion that a decision of the board of adjustment is illegal, may present to a court of record a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of illegality as provided in Vernon's Local Government Code, chapter 241. Such petition shall be presented to the court within ten (10) days after the decision is filed in the office of the board.

**(j) Conflicting regulations.**

In the event of conflict between any airport zoning regulations adopted hereunder and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, and whether such other regulations were adopted by the city or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

**(k) Imaginary surfaces (Kelly and, Randolph Air Force Bases).**

The following airport imaginary surfaces are hereby created and establish the limit above which any projection of a structure, natural growth or object constitutes an airport hazard under these regulations:

**(1) Primary surface.**

The primary surface is centered longitudinally and laterally about each runway. It extends two hundred (200) feet beyond each end of the runway in a horizontal plane at the same elevation as the associated runway end, except at military airports where primary surface length is the same as the runway length.



Between the ends of the runway it has a uniform gradient as established by the runway and elevations. The width varies as follows:

- A. Instrument runways, municipally-owned airports, one thousand (1,000) feet.
- B. Non-instrument runways, municipally owned airports, five hundred (500) feet.
- C. Runway 15-22, Kelly Air Force Base: two thousand (2,000) feet.
- D. Runway 14-32, Kelly Air Force Base, and all runways, Randolph Air Force Base: one thousand five hundred (1,500) feet.

**(2) Approach-departure surface**

- A. The approach-departure surface begins at the end of the primary surface, except at military airports where it begins two hundred (200) feet beyond the primary surface, and is centered about the runway center line extended. From a width equal to that of the primary surface it extends outward and upward and increases uniformly in width as follows:
- B. For instrument runways at municipally owned airports, the approach-departure surface extends outward from the primary surface at a distance of fifty thousand (50,000) feet, at which point it is sixteen thousand (16,000) feet wide. It extends upward at a slope of 50 to 1 to a distance of ten thousand (10,000) feet from primary surface, thence at a slope of 40 to 1 thereafter.
- C. For non-instrument runways at municipally-owned airports, the approach departure surface extends outward from the primary surface a distance of ten thousand (10,000) feet, at which point it is two thousand five hundred (2,500) feet wide. It extends upward at a slope of 40 to 1.
- D. For military airports, the approach-departure surface begins two hundred (200) feet beyond the primary surface and thereafter extends outward a distance of fifty thousand (50,000) feet, at which point it is sixteen thousand (16,000) feet wide. It extends upward at a slope of 50 to 1 until it reaches an elevation five hundred (500) feet above the established airport elevation, then it continues horizontally to its outer end.

**(3) Transitional surface.**

The transitional surface extends outward and upward at right angles to the runway center line at a slope of 7 to 1 until it intersects the horizontal or conical surface, except that transitional surfaces for those portions of ILS approach surfaces that project through and beyond the limits of the conical surface, extend a distance of five thousand (5,000) feet measured horizontally from the edges of those portions of the approach surfaces and at right angles to the runway center line. For military airports, the transitional surface does not apply for the horizontal portion of the approach-departure surface.

**(4) Inner horizontal surface.**



The inner horizontal surface is a horizontal plane at a height of one hundred fifty (150) feet above the established airport elevation. Its outer edge is determined by scribing an arc with a radius of seven thousand five hundred (7,500) feet above a point on the center line at the end of all runways and interconnecting these arcs with tangents.

**(5) Conical surface.**

The conical surface extends outward and upward from the outer edge of the inner horizontal surface at a slope of 20 to 1 for a horizontal distance of seven thousand (7,000) feet to a height of five hundred (500) feet above the established airport elevation.

**(6) Outer horizontal surface.**

The outer horizontal surface is a horizontal plane which extends from the outer edge of the conical surface a distance of thirty thousand (30,000) feet at a height five hundred (500) feet above the established airport elevation.

**(7) Airport Zoning Maps**

The attached airport zoning maps are hereby adopted and supersede all prior airport zoning maps. The imaginary surface boundaries are shown on these maps by aerial contours.

## **35-332 Edwards Recharge Zone District (ERZD)**

*The Edwards Recharge Zone District (ERZD) has been established for locations where the Edwards and associated limestone formations come to the surface to provide a recharge area for the underground water supply contained within these formations. The recharge area also can provide an entrance to the underground water supply for contaminated water runoff from uses on the recharge zone as well as from the related sensitive area. Thus this recharge zone district is designed to not allow land uses which which could adversely affect the water supply, and thereby minimizing the risk of potential occurrences wherein such substances could enter the water reservoir. Land uses permitted are those not having operations, production, or storage of hazardous materials which could contribute contaminants to the water supply. All land uses allowed within the ERZD by this subdivision must also conform to the requirements of Chapter 34, Article VI, Division 6, of this Code.*

*The provisions of this Section implement the following policies of the Master Plan:*

- *Natural Resources, Policy 1b: Develop and implement a management plan for land use activities which includes the best management practices, based on scientific study, that will protect the recharge and drainage zones of the Edwards Aquifer from pollution.*
- *Natural Resources, Policy 1b: Aggressively implement the water quality recommendations included in the 1994 report, The Edwards Aquifer: San Antonio Mandates for Water Quality Protection and any subsequent revisions.*
- *Natural Resources, Policy 1b: Incorporate comprehensive watershed management considerations in revisions of land use and development standards.*

- *Natural Resources, Policy 1b: Support new development designs that incorporate street, drainage and lot layouts which reduce storm runoff, pollutant loading, and the need for landscape irrigation.*
- *Natural Resources, Policy 1b: Adopt urban drainage standards which reduce non point source pollution and minimize downstream flooding.*
- *Natural Resources, Policy 1b: Continue to enforce, and strengthen if necessary, requirements for underground storage tanks.*
- *Natural Resources, Policy 1b: Identify significant recharge features and accurately record their location onto subdivision plats using current computer technology.*
- *Natural Resources, Policy 1b: Protect recharge features through such measures as acquisition, zoning restrictions, and buffering.*
- *Natural Resources, Policy 1b: Consider impacts of transportation on the recharge zone when revising and implementing the Major Thoroughfare Plan.*
- *Natural Resources, Policy 1b: Utilize vegetated buffer zones along 100 year floodplains and significant creeks.*
- *Natural Resources, Policy 1b: Establish standards for vegetation clearing and maintenance.*
- *Natural Resources, Policy 1b: Maximize open space and minimize impervious cover through all available means.*
- *Natural Resources, Policy 1b: Study the correlation between land use and stormwater quality and set standards in accordance with the findings.*
- *Natural Resources, Policy 1b: Utilize mechanisms such as land banking to provide incentives to public and private entities to mitigate impacts at a higher ratio than the minimum required.*
- *Adopt local guidelines and support regional guidelines for construction activities in the Edwards Aquifer Drainage and Recharge Zones area.*

**(a) Boundaries.**

The limits of the Edwards Recharge Zone District (ERZD) are described on United States Geological Survey Quadrangle Maps, being copies of the official maps in the offices of the Texas Natural Resource Conservation Commission (TNRCC), and are defined in the Texas Administrative Code, 31 TAC § 701 *et seq.* (West 1997). If the limits of the ERZD cannot be accurately determined, then Watershed Protection and Management Department of SAWS shall interpret the district boundaries after obtaining such geologic information as is necessary from the United States Geological Survey or other properly designated agency.

**(b) Zoning classification.**

- (1) The Edwards Recharge Zone District (ERZD) is designed as an overlay to the regular zoning districts. Property located within this overlay district must also be designated as being within one of the regular zoning districts. Authorized uses must be permitted in both the regular zoning district and the overlay district.
- (2) Uses permitted by right and with a specific use permit are specified in § 35-311, Table 311-1 of this article, Permitted Uses. It shall be unlawful for any person to make use of any property located within the Edwards Recharge Zone District, except in accordance with such tables of permitted uses.

**(c) Development Standards**

No use may be established, and no development activity shall occur, within the ERZD except in compliance with the Edwards Aquifer Protection Standards ( Chapter 34, Article VI, Division 6 of the City Code).

**35-333 Historic Districts and Landmarks**

*Pursuant to Texas Local Government Code §§ 211.001 and 211.003, historic districts and landmark designations are adopted in order to protect and preserve places and areas of historical, cultural, or architectural importance and significance. Historic Districts and Landmark designation preserve and enhance the City's historic resources pursuant to Goal 2 of the Urban Design Element of the Master Plan.*

**(a) Establishment**

Historic districts and landmarks shall be established and governed in accordance with Division 2 of Article 6 of this Chapter.

**(b) Applications for Rezoning**

- (1) The designated Historic Districts have outstanding historic and cultural significance. When considering applications for rezoning relating to Landmarks and in Historic Districts, the Zoning Commission shall apply the following goals and guidelines in addition to the criteria set forth in § 35-421 of this Chapter:
  - A. Preserve the architectural integrity of the Historic District or Landmark.
  - B. Promote the general welfare of the community by fostering compatible land uses.
  - C. Permit only uses which would be compatible within these districts.
  - D. Prevent uses which would deteriorate the Landmark, Historic District, and/or district character.
  - E. Provide a sense of community identity and continuity for site planning issues such as open space, parking ratios, setbacks, lot size, building heights, signs, lighting, and traffic.
- (2) All decisions approving a rezoning related to a Landmark or within an Historic District should:
  - A. conform as closely as possible to established zoning regulations while incorporating these goals; and
  - B. protect adjacent property; and
  - C. encourage preservation, restoration and revitalization of existing structures and neighborhood integrity.
- (3) When considering applications for a rezoning related to a Landmark or within an Historic District, the Zoning Commission should encourage housing, commercial or institutional uses, or combinations thereof, to maintain the historic, architectural, and cultural harmony of design and function. It is further the intent of these goals and guidelines to provide for:

- A. Zoning which preserves existing historic districts, landmarks, architecture, structures, trees, outstanding natural topography, and geologic features.
  - B. An efficient use of inner city land resulting in the use of existing facilities, structures, utilities, streets, topography, and resources.
  - C. An environment of stable architecture in harmony with the historic and cultural character of the surrounding cityscape.
- (4) Flexibility to implement special development concepts should be encouraged, but should not detract from these goals and guidelines.

### **35-334 Military Airport Overlay District**

*The City of San Antonio has designated the Military Airport Overlay Zones in order to promote the public health, safety, peace, comfort, convenience, and general welfare of the inhabitants of military airport environs and to prevent the impairment of military airfields and the public investment therein. The land areas below military airport take off and final approach paths are exposed to significant danger of aircraft accidents. It is, therefore, necessary to limit the density of development and intensity of uses in such areas. The Military Airport Overlay Zones are intended to:*

- *Guide, control, and regulate future growth and development.*
- *Promote orderly and appropriate use of land.*
- *Protect the character and stability of existing land uses.*
- *Enhance the quality of living in the areas affected.*
- *Protect the general economic welfare by restricting incompatible land uses.*
- *Prevent the establishment of any land use which would unreasonably endanger aircraft operations and the continued use of military airports.*

#### **(a) Boundaries.**

The specific boundaries of the Military Airport Overlay Zones are shown on the official zoning map maintained in the department of planning. At the ends of the runways of military airports are designated Clear Zones which measure three thousand (3,000) feet by three thousand (3,000) feet in length and width. Beyond the Clear Zones, the city has designated two (2) Military Overlay Zones (see diagram):

##### **(1) Military Airport Overlay Zone 1 (MAO-I)**

This zone extends approximately five thousand (5,000) feet in length and three thousand (3,000) feet in width beyond the Clear Zone.

**(2) Military Airport Overlay Zone 2 (MAO-2)**

This zone extends approximately seven thousand (7,000) feet in length and three thousand (3,000) feet in width beyond MAO-1.

**(b) Zoning classification.****(1) Overlay district.**

The Military Airport Overlay Zones are designed as overlays to the regular zoning districts. Property located within these districts must also be designated as being within one of the regular zoning districts. Authorized uses must be permitted in both the regular zoning district and the overlay district and must comply with height, yard, area, and parking requirements of the regular zoning district.

**(2) Zoning designation.**

The zoning designation of property located within the Military Airport Overlay Zones shall consist of the regular zone symbol and the overlay district symbol as a suffix. For example, if a parcel is zoned B-1 and is also located within District 2, the zoning designation of the property would be B-1 (MAO-2). In effect, the designation of property as being within a Military Airport Overlay Zone places such property in a new zoning district classification and all procedures and requirements for zoning/rezoning must be followed.

**(c) Uses.****(1) Prohibited uses.**

The following uses are prohibited within the Military Airport Overlay Zones:

- A. Residential uses, except as provided for in Exceptions for Residential Uses (subsection (d), below).
- B. Transient lodging, hotels, and motels.
- C. Hospitals, sanitariums, and nursing homes.
- D. Public and private schools, including day care centers, professional, trade, and technical schools.
- E. Churches and cultural facilities.
- F. Auditoriums, except as a proper accessory to a permitted use.
- G. Correction, detention, and penal institutions.
- H. Flea markets.
- I. Amusement and recreational uses over five thousand (5,000) square feet in size, except for golf courses, riding stables, and horse training facilities.

- J. Restaurants, eating and/or drinking establishments, clubs and lodges.
- K. Billboards.
- L. Shopping centers/malls in Zone 1 and shopping centers/malls in excess of two hundred and fifty thousand (250,000) square feet in Zone 2.

**(2) Permitted uses.**

All other uses authorized by the underlying zoning district are permitted subject to the conditions set forth for Floor Area Ratio, Visual and Electrical Interference, and Storage of Flammables subsections (e)-(f), below.

**(d) Exceptions for residential uses.**

**(1) Existing residences.**

Notwithstanding any other provisions of this Ordinance, residential uses located within the Military Airport Overlay Zones which were lawfully in compliance with the provisions of this chapter on August 13, 1987 may be repaired and enlarged provided (1) the number of dwelling units is not increased and (2) all other applicable requirements of this district are met.

**(2) Vacant lots.**

Vacant platted lots which are zoned for single-family residential uses may be used for single-family residences providing they conform to all other applicable requirements of this district. Such lots may not be subdivided into more than one additional lot for single-family residential use.

**(e) Floor area ratio.**

The floor area ratios specified in the table below shall apply to uses within Military Airport Overlay Zones 1 and 2. The floor area ratio shall be determined by dividing the total floor area of all buildings on a platted lot by the total lot area.

Uses	District 1	District 2
Retail trade limited to automotive, building materials, furniture, home furnishings, and marine sales	0.25	0.50
All other retail trade	0.00	0.30
Wholesale trade	0.50	1.00
Industrial/Manufacturing	0.50	1.00
Personal services and business	0.00	0.50
Processing and warehousing	0.50	1.00
All other uses	0.25	0.50

**(f) Visual and electrical interference.**

Notwithstanding any other provisions of these regulations, no use shall be made of land within the Military Airport Overlay Zones in such a manner to:

- Release into the air any substance which would impair visibility or otherwise interfere with the operation of aircraft; e.g., steam, dust, smoke, etc.;
- Produce light emissions, either direct or indirect (reflective) which would interfere with pilot vision;
- Produce electrical emissions which would interfere with aircraft communications systems or navigational equipment; or
- Attract birds or waterfowl, or in any other manner constitute an airport hazard.

**(g) Storage of flammables.**

The provisions of this section shall apply throughout the Military Airport Overlay Zones. All technical terms shall be interpreted as defined in the Uniform Fire Code.

**(1) Solid materials.**

- The storage or manufacture of flammable solid materials or products is permitted only if the flammable material or products are stored or manufactured within completely enclosed buildings having noncombustible exterior walls and protected throughout by an automatic fire extinguishing system.
- The storage or manufacture of explosive materials and of materials or products which decompose by detonation is prohibited.

**(2) Liquid materials.**

- A. The manufacture of flammable or combustible liquids or materials which produce flammable or combustible vapors or gases is prohibited.
- B. the storage of flammable and combustible liquids, or of materials that produce flammable or combustible vapors or gases, shall be permitted only in accordance with the Uniform Fire Code.

**(h) Height regulations.**

The height of structures within the Military Airport Overlay Zones shall be governed by the height requirements of the underlying zoning district as well as the provisions of the Joint Airport Zoning Regulations in Division 11, Article III of this chapter.

**(i) Site Plan**

Except for single-family residences, a site plan shall be submitted to the director of planning for approval by the planning commission prior to the issuance of building permits as provided in § 35-475.



---

**35-335      *Neighborhood Conservation District (NCD)*****(a)      *Purpose.***

- (1) Within the City of San Antonio there are many unique and distinctive residential neighborhoods or commercial districts which contribute significantly to the overall character and identity of the City. They are worthy of preservation and protection, but may lack sufficient historical, architectural or cultural significance at the present time to be designated as historic districts. As a matter of public policy, the City Council aims to preserve, protect, enhance, and perpetuate the value of these residential neighborhoods or commercial districts through the establishment of Neighborhood Conservation Districts.
- (2) The purposes of a Neighborhood Conservation District in residential neighborhoods or commercial districts are as follows:
  - A. to protect and strengthen desirable and unique physical features, design characteristics, and recognized identity, charm;
  - B. to promote and provide for economic revitalization;
  - C. to protect and enhance the livability of the City;
  - D. to reduce conflict and prevent blighting caused by incompatible and insensitive development, and to promote new compatible development;
  - E. to stabilize property values;
  - F. to provide residents and property owners with a planning tool for future development;
  - G. to promote and retain affordable housing;
  - H. to encourage and strengthen civic pride; and
  - I. to ensure the harmonious, orderly and efficient growth and redevelopment of the City.
- (3) The Neighborhood Conservation District planning tool implements the following policies of the Master Plan:
  - A. Neighborhoods, Policy 2b (1): Establish a zoning classification such as a Conservation District or a Planned Development District for neighborhood specific plans.
  - B. Urban Design, Policy 1b (1): Create and adopt urban design guidelines and standards that will enhance the quality of life in San Antonio, and which specifically encourage the following...preservation and enhancement of the City's important historic and cultural characteristics, including architectural styles and historic districts, as well as existing residential and commercial districts, and neighborhood centers.
  - C. Urban Design, Policy 1d (1): Involve neighborhoods in developing neighborhood-specific plans that define the character and pattern of development for their neighborhood, and that establish infill development guidelines.

**(b)      *Designation Criteria.***

To be designated as a Neighborhood Conservation District, the area must meet the following criteria:

- (1) contain a minimum of one blockface (all the lots on one side of a block);
- (2) at least 75% of the land area in the proposed district was improved at least 25 years ago, and is presently improved; and

- (3) possess one or more of the following distinctive features that create a cohesive identifiable setting, character or association;
- (4) scale, size, type of construction, or distinctive building materials;
- (5) spatial relationships between buildings;
- (6) lot layouts, setbacks, street layouts, alleys or sidewalks;
- (7) special natural or streetscape characteristics, such as creek beds, parks, greenbelts, gardens or street landscaping;
- (8) land use patterns, including mixed or unique uses or activities; or
- (9) abuts or links designated historic landmarks and/or districts.

**(c) Zoning Authority.**

- (1) Separate ordinances are required to designate each Neighborhood Conservation District. Ordinances designating each district shall identify the designated boundaries, applicable Designation Criteria and design standards for that district, and be consistent with any existing Neighborhood and/or Community plans.
- (2) Overlay district. Neighborhood Conservation Districts are designed as overlays to the regular zoning districts. Property designated within these districts must also be designated as being within one or more of the regular base zoning classifications. Authorized uses must be permitted in both the regular zoning district and the overlay district. Property designated as a Neighborhood Conservation District may have additional designations. Such property shall comply with all applicable use restrictions.
- (3) Zoning designation. The zoning designation for property located within a Neighborhood Conservation District shall consist of the base zone symbol and the overlay district symbol (NCD) as a suffix. Neighborhood Conservation Districts shall be numbered sequentially to distinguish among different districts, i.e., R-6 (NCD-1), C-1 (NCD-2), etc.
  - A. The designation of property within a Neighborhood Conservation District places such property in a new zoning district classification and all procedures and requirements for zoning/rezoning must be followed.
  - B. In the event of a conflict between the provisions of a specific Neighborhood Conservation District ordinance and the regular base zoning district regulations, the provisions of the Neighborhood Conservation District ordinance shall control.
  - C. Except as modified by this section, the procedures for zoning changes set forth in § 35-3024 shall otherwise apply to the designation of an area as a Neighborhood Conservation District.
  - D. Upon designation of an area as a Neighborhood Conservation District, the City Council shall cause notice of such designation to be recorded in the official public records of real property of Bexar County, the tax records of the City of San Antonio and the Bexar Appraisal District, and the House Numbering section of the City of San Antonio's Department of Building Inspections.

**(d) Initiation Procedures.**

- (1) A zoning change application for designation as a Neighborhood Conservation District shall be initiated at the direction of the:

- A. request of owners representing 51% of the land area within the proposed district, or
  - B. request of 51% of property owners within the proposed district, or
  - C. Director of Planning, pursuant to a Neighborhood or Community Plan adopted by City Council, or City or community revitalization program.
- (2) Following initiation for designation of a Neighborhood Conservation District, the Planning Department shall develop a Neighborhood Conservation Plan for the proposed district that includes:
- A. maps indicating boundaries, age of structures and existing land use within the proposed district;
  - B. maps and other graphic and written materials identifying and describing the distinctive neighborhood and building characteristics of the proposed district;
  - C. a list of all property owners (with legal addresses), neighborhood associations and/or other organizations representing the interests of property owners in the proposed district; and
  - D. design standards.
- (3) All property owners within the proposed district shall be afforded the opportunity to participate in drafting the Neighborhood Conservation Plan, which will be approved as part of the zoning ordinance creating a Neighborhood Conservation District.

**(e) Design Standards.**

- (1) The conservation plan approved as part of the zoning ordinance creating a Neighborhood Conservation District shall include Design Standards for new construction of any building or structure, or the relocation or rehabilitation to the street facade of an existing building or structure.
- (2) The Neighborhood Conservation Plan, and requisite Design Standards shall not apply to those activities which constitute ordinary repair and maintenance, i.e., using the same or similar material and design.
- (3) The Design Standards for the Neighborhood Conservation District must include at a minimum (or note the inapplicability), the following elements governing the physical characteristics and features of all property (public or private) within the proposed district:
- A. building height, no. of stories;
  - B. building size, massing;
  - C. principal elevation features;
  - D. lot size, coverage;
  - E. front and side yard setbacks;
  - F. off-street parking and loading requirements;
  - G. roof line and pitch;
  - H. paving, hardscape covering;
- (4) In addition, the Design Standards may include, but shall not be limited to, the following elements:

- A. building orientation;
- B. general site planning (primary, ancillary structures);
- C. density;
- D. floor area ratio;
- E. signage;
- F. architectural style and details;
- G. building materials;
- H. garage entrance location;
- I. window/dormer size and location;
- J. landscaping;
- K. fences and walls;
- L. entrance lighting;
- M. driveways, curbs and sidewalks;
- N. utility boxes, trash receptacles;
- O. street furniture;
- P. solar systems, components;
- Q. building relocation;
- R. right-of-way (exceeding Public Works standards)

**(f) Neighborhood Ordinance Administration**

- (1) No building permit shall be issued by the Department of Building Inspections for new construction or an alteration or addition to the street facade of an existing building or structure within a designated Neighborhood Conservation District without the submission and approval of design plans and the issuance of a Certificate of Compliance by the Director of Planning.
- (2) The Director of Building Inspections shall forward a copy of a building permit application to the Director of Planning for review and comment.

**(g) Violation of Provisions.**

- (1) The violation of any provision of this section shall constitute a violation of this Chapter and may be prosecuted in municipal court regardless of whether civil or administrative action is taken against the permit holder. Upon conviction, the permit holder shall be subject to the penalties prescribed in Article 1, Division 2 of this Chapter.
- (2) The Director of Planning may request the City Attorney to institute a civil action as prescribed in Article 1, Division 2, regardless of whether a criminal action has been taken.

## **35-336      Utility Conversion Districts**

*Within the city there are numerous corridors in which the transmission of electricity, telecommunications, cable television and other technologies (collectively referred to as utilities or facilities within this division) has been facilitated through the use of above ground poles in public rights-of-way and easements.*

*Undergrounding or relocation of these facilities can provide a safer environment for the public. Undergrounding, relocation or redesign of these facilities can enhance the surrounding development by improving the visual appearance and appeal of the city's visitor attractions, scenic views and urban corridors, cultural and historical resources, public gathering places and other major public facilities. The undergrounding, relocation or redesign of these facilities can also promote economic development and revitalization in surrounding areas, increase the value of commercial properties and residential neighborhoods, and improve the quality of life for all San Antonians.*

*The establishment of utility conversion districts requires mechanisms to identify and designate the specific corridors and areas to be modified, to determine the nature of the improvements to be required in each such corridor or area, to require the various utility companies to implement these projects as parts of public works or civic improvement projects directed by city council and to require property owners and utility customers to modify their property as necessary to receive utility services from underground, relocated or redesigned distribution systems.*

### **(a)      Applicability**

To be established as a utility conversion district, a corridor or area must meet either one of the following criteria:

- The proposed utility conversion district includes the area of another public works or civic improvement project which is already planned and for which reasonable assurance of funding has been secured. If the existing public works or civic improvement project does not already require some relocation of existing above-ground utilities in the area, then it must be of such unique and city wide significance, as determined by city council, to justify consideration to achieve the purposes of this subdivision. This related project does not need to be sponsored or financed by the city, but it must be the project of a governmental entity; or
- A utility conversion district is proposed by a petition of the property owners in the area. The petition must be signed by the owners of at least two-thirds (2/3) of the total number of lots or separate tracts of land in the area of the proposed district, and the property of these owners must encompass at least two-thirds (2/3) of the total land area of the proposed district, excluding the area of streets, alleys and other public rights-of-way and of any other land owned by the city. Petitioners shall use the city petition form for utility conversion districts to ensure that the project proposed is technically feasible and worthwhile and that all of the affected property owners are considered in the calculation of the signature requirement.

Other provisions of this Code notwithstanding, the provisions of this section shall apply to property belonging to or used by the city, or to property used to provide city owned utilities.

### **(a)      UCD Ordinances**

**(1) Ordinances establishing Utility Conversion Districts**

This division authorizes the establishment of utility conversion districts and includes general provisions governing all such districts. However, a separate ordinance is required to establish each such district. The ordinance establishing a particular utility conversion district shall:

- Describe the area of the district
- Specify the requirements for improvement of the utilities in each part of the district, and
- Establish a deadline by which existing utility customers within the district must complete the modification of their property as necessary to continue to receive utility services from the new utility distribution systems.

**(2) Requirements of Utility Conversion Districts**

The requirements of a particular district may include any combination of the following:

- The conversion of existing overhead utility facilities to underground operation;
- The relocation of existing overhead utility lines from one specified route to another;
- Specified improvements in the design of existing and/or new overhead utilities.
- A requirement that all new utility lines in the district or in a specified area of the district be installed underground or meet an improved design standard without requiring modification of existing utilities in the district or that area of the district.

The requirements of a particular district may apply to transmission and trunk lines, to distribution lines, or both, as specified in the ordinance creating the district. The ordinance creating a particular district shall specify the improvements which are to be required in the district, and it may apply any combination of the preceding requirements to any particular specified areas or corridors within the district. In addition, the ordinance may require that whenever utility lines are extended from within the district or a specified area of the district to serve property which is outside but adjacent to the district or that area of the district, the portion of the extensions within the district shall conform to the district requirements with respect to underground installation, aboveground route or design standard as appropriate.

**(3) Utility Conversion Districts are Overlay Districts**

Utility conversion districts are established as overlays to the regular base zoning districts. The zoning district designation for each utility conversion district shall consist of the base zone symbol with the overlay district symbol "UCD-" as a suffix, followed by a sequential number for the order in which these districts are created.

**(b) UCD Procedures****(1) Compilation Process**

At the beginning of each calendar year, city staff shall begin compiling a list of the proposals for utility conversion districts which have been received during the previous year and which meet the criteria of the previous paragraph. Upon completion of the compilation process, city staff shall make the list available to the public. This list shall include the staff's preliminary analysis of the potential benefits, technical feasibility, and costs of each proposed district which is eligible for consideration. For each proposed and eligible district, the analysis shall also include consideration of any alternatives to the

initially proposed requirements which the staff believes are feasible and would largely achieve the intended objectives of the district.

**(2) City Council Resolution**

Each year, following the city's receipt of notice from CPS of the amount of funds available for utility conversion projects in the city, the city council shall hold a public hearing to consider the establishment of utility conversion districts. Following the hearing, the council shall adopt a resolution stating its intention to establish one or more utility conversion districts, up to the limit of the funds available. The number of districts and their size and scope shall be limited to the funds available. For each such district which the council intends to establish, the resolution shall describe the area or boundaries of the district, the requirements or combinations of requirements which are proposed in each part of the district, and the deadline which is proposed for compliance by the utility customers.

**(3) Notification**

Following the adoption by city council of a resolution of intent to establish a utility conversion district, the city shall notify each property owner, inside and within two hundred (200) feet of the boundaries of the proposed district, of this action. The city will also work with the utilities involved to identify and notify the utility customers in the area who are not property owners. The notice shall include a summary explanation of the purposes, procedures, requirements and possible impacts on property owners and utility customers of the establishment of a utility conversion district. The notice may also include the time and place of an informal public meeting, in a location convenient to the area, at which city staff will explain the process of implementing utility conversion districts, answer questions, and attempt to gather information on the degree of community support for the proposal.

**(4) Decision**

- Following the notice of the council's intent to establish a utility conversion district and the neighborhood public meeting, the zoning commission shall hold a public hearing and make recommendations to city council. Notice of the hearing shall be provided in the same manner as for a change in zoning. The planning commission will also consider the substance of the proposed utility conversion district and make a recommendation to the city council.
- Following receipt of the recommendations of the zoning commission and the planning commission, the city council shall hold a second public hearing before determining whether to proceed with the establishment of the district. If the council determines to proceed, it shall adopt an ordinance establishing the district as an amendment to § 35-335(i) of the Unified Development Code. The ordinance adopting the amendment to § 35-335(i) shall also declare that implementation of the utility improvements is required for the public health, safety and general welfare, and that the project constitutes a public works or civic improvement project of the city within the meaning of the utility franchise and municipal fee agreements.
- If the council determines not to proceed with the establishment of the district, it shall adopt a resolution to abandon the proposal. The council may then adopt a resolution of intent to establish another utility conversion district in place of the district which is abandoned. The adoption of a new resolution of intent shall then initiate the processes of notice, neighborhood meeting, and recommendations by the zoning commission as set out in the previous paragraphs of this section.



However, the council may not establish a new district at this stage unless the proposed district was among those considered at the previous annual public hearing.

- Within thirty (30) days after the establishment of a utility conversion district, the city shall notify each affected utility company and property owner listed on the current Bexar County Appraisal District tax rolls. The notice to the utilities shall constitute their direction to proceed with the project as a public works or civic improvement project of the city. Except for districts or areas within districts which only require new utility distribution lines to be extended underground, the notice shall notify property owners that the utility poles, overhead utility lines and associated facilities in the district are to be removed and converted to underground operation, or relocated or redesigned as appropriate to the location of their property within the district, and that if the property owners, the tenants or occupants of their property desire to continue to receive the utility services they must make all of the necessary changes on the premises so as to receive service from the new utility distribution systems. The notice shall also notify the property owners of the anticipated schedule for the completion of the district improvements and the required deadline for modification of the property. The notice shall also inform the property owners of the technical and other assistance which is available to them in meeting the district requirements, and contain the name, office address and telephone number of a city staff person who will be available to answer questions.

**(c) Implementation of district improvements.**

**(1) Conversion of Overhead to Underground Operations**

If the ordinance establishing a particular utility conversion district requires the conversion of overhead utilities to underground operation, then every public utility which has poles, overhead lines and associated above-ground facilities in the affected area of the district shall remove its poles, overhead lines and associated facilities in the area as required by the ordinance establishing the district, subject to other applicable city ordinances and franchise agreements. Thereafter no new utility poles, overhead lines or associated facilities shall be permitted in the affected district area.

**(2) Rerouting of Overhead Utility Lines**

If the ordinance establishing a particular utility conversion district requires the relocation of overhead utilities from one route to another, then every public utility which has poles, overhead lines and associated above-ground facilities along the route which is to be vacated shall remove its poles, overhead lines and associated facilities from that route, and shall install such new facilities as it considers necessary along the alternate route, as required by the ordinance establishing the district. Thereafter no new utility poles, overhead lines or associated facilities shall be permitted in the district along the route which is vacated. The ordinance establishing the district may also require that utility lines shall not be extended overhead from elsewhere within the district or within a specified area of the district to serve adjacent property along that route or along a specified part of that route. Prior to placement, the location of all new poles, anchors and guy lines along any new route shall be approved by the director of public works.

**(3) Replacement of Facilities**

If the ordinance establishing a particular utility conversion district requires the replacement of existing poles, overhead lines and associated above-ground facilities with those of an improved design, then every public utility which has poles, overhead lines and associated facilities in the affected area of the

district shall remove those which do not conform to the improved design standard and shall replace them with poles, lines and associated facilities which meet the improved standard, as required by the ordinance establishing the district. Thereafter no new utility poles, overhead lines or associated facilities shall be permitted in the affected district areas which do not meet the improved design standard. Prior to placement, the location, route and design of the new poles (including anchors and guy lines), overhead lines and associated facilities shall be approved by the director of public works.

**(4) Regulations Applicable Only to New Development**

If a requirement of the ordinance establishing a particular utility conversion district applies only to new development, then the existing utility poles, overhead lines and associated facilities in the affected district area may continue in use and may be replaced as necessary. However, no additional poles shall be installed and no additional lines shall be extended on existing poles in the affected district area except in conformance with the district requirements.

**(d) Responsibilities of property owners and customers.**

**(1) Application.**

This section applies whenever a utility conversion district requires:

- The conversion of overhead utilities to underground operation;
- The relocation of overhead utilities from one route to another; or
- The replacement of existing poles, overhead lines and associated above-ground facilities with those of an improved design.

**(2) New easements.**

Any new easement acquired by the city shall be reasonable and necessary. If an additional easement or easements are required, the utility may request the property owner to dedicate the easement with no compensation to the property owner. Election by the property owner to not dedicate the easement without receipt of compensation, will in no way impair the property owner's service contract with the utility. In such event, the city may:

- Withdraw or modify the proposed designation of the project as a utility conversion district; or
- Procure the new easement in conformity with existing procedures and statutes governing compensation for nonvoluntary easements.

The cost associated with acquisition of easements for utility conversion district shall not be borne by the property owner conveying the easement. Acquisition costs for gas and/or electric easements shall be paid from the city public service conversion fund. Acquisition costs for other easements shall be paid by the respective utilities.

**(e) Modification to receive utility service.**

**(1) Financial Responsibility**

Property owners and customers shall not be required to pay any costs associated with conversion of existing utility service to underground utilities. Modifications to the owner/customer's property necessary to receive service from the new utility distribution system shall be paid from the city public service conversion fund. However, if preexisting electrical code violations are observed during installation or reconnection of service from the new utility distribution system the property owner/customer shall be responsible for the correction of such violations. All correction of violations shall be completed within ninety (90) days after written customer and owner notification that the new distribution system is available. For the purposes of this section, "preexisting electrical code violation" shall mean the violation of the electrical code in effect at the time the property owner/customer's improvements were constructed. Only life safety corrections will be required. Electrical installations that comply with prior codes and are in good repair may remain. All conversion costs for other utilities shall be borne by the respective utilities.

**(2) Unfunded Conversion Costs**

In the event conversion costs that do not qualify for payment through the city public service conversion fund are not borne by the customers, municipal utilities, other utilities or other interests, the project will not be designated as a utility conversion district unless the affected property owners voluntarily choose to pay for conversion costs of their property to receive service from the new distribution system.

**(3) Utility drops**

All new construction and new structural alterations which involve the utility drop of an existing building or structure with a utility conversion district shall be designed to receive utility service from the utility distribution system required in the district.

**(f) Disconnection of service.**

In the event that a property owner or utility customer does not comply with the requirements of a utility conversion district within ninety (90) days after receiving notice that service is available from the new utility distribution system, the utility provider(s) shall notify the director of public works of the owner/customer's noncompliance. The director of public works shall give the noncompliant party an opportunity to be heard. If, after this opportunity to be heard, the director of public works determines that the service should be disconnected, he/she shall direct the utility providers to do so. The purpose of this provision is to provide for flexibility when dealing with exceptional circumstances and not to frustrate the intent expressed in this division to convert or reroute utilities.

Upon notice to disconnect service, and subject to applicable federal and state rules and regulations regarding service termination, the utility providers shall disconnect and remove any and all poles, overhead lines and associated facilities supplying utility service to the subject property. The utility providers shall not thereafter be required to provide service to such premises until the necessary modifications to receive service from the new distribution system are made.

**(g) Exceptions.**

The provisions of this division shall not apply to the following types of facilities:

- Temporary utility services during construction.
- Overhead lines attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another or to an adjacent building without crossing the front line of the building or the building set backs.

In the case of a utility conversion district which requires the conversion of overhead utilities to underground operation or the installation of new utilities underground, the director of public works shall, at the property owner's request, authorize the use of overhead service drops from riser poles located on private property when the riser pole is located behind the front line of a building and behind the adjacent street side line of a building on a corner lot, or the riser pole is otherwise effectively shielded from public view from any street abutting the property.

**(h) *Emergencies and unusual circumstances.***

In cases of emergency or unusual circumstances of a temporary nature, the director of public works may authorize any person to erect, maintain and use utility poles, overhead utility lines and associated facilities which do not meet the requirements of a utility conversion district for the duration of the emergency or unusual circumstances, not to exceed one year.

**(i) *Districts established.***

The utility conversion district administrative procedures attached to Ordinance No. 85764 are adopted in order to provide city staff with general guidance regarding the implementation process and project selection criteria. The administrative procedures are available for public inspection in the office of the City Clerk.

The city council urges city public service to limit its annual contributions to the utility conversion fund to the current one percent of the electric revenue of the CPS electric system billed during the previous fiscal year, and to refrain from implementing any further rate increases to subsidize this fund.

## **35-337 Viewshed Protection Districts**

*The purpose of this district is to establish regulations to protect, preserve and enhance of views and vistas by authorizing and establishing viewshed protection districts. The City of San Antonio has many views and vistas of historic places, landmark buildings, and other sites of cultural importance which have always been important to the city. These views will continue to be amenities and assets of great value to the city, its people and its economy. New development in the vicinity of these important places is usually beneficial, but when construction becomes too tall and begins to overwhelm or intrude, in scale and mass, the main view or vista of a smaller place of significance, then the viewshed located behind the significant property should be protected. Viewshed protection districts are overlay districts that will be used primarily for unique situations regarding views and vistas that are not adequately covered by the standard zoning districts.*

*Specific purposes of these viewshed protection districts are as follows:*

- *To safeguard San Antonio's heritage by preventing the despoliation of views of areas and buildings that reflect important elements of the City's cultural, natural, historic, and economic fabric.*
- *To create favorable impressions of San Antonio as well as provide environmental enrichment for the citizens of the city.*
- *To enhance San Antonio's image as a scenic and livable city and to provide appropriate measures to maintain the existing ambiance of certain historic and cultural sites.*
- *To preserve, protect, and enhance visually those areas of high visitor interest.*
- *To reduce visual distractions and enhance the photographic quality and opportunities of important historic and cultural sites and landscapes.*

**(a) Designation Criteria.**

To be designated as a viewshed protection district, an area must lie within the viewshed of the major entrance or front door to the following historic landmark buildings, objects, sites, or structures:

Site	Legal Description	Address
The Alamo ( Mission San Antonio de Valero)	All of NCB 115	320 Alamo Plaza
Mission Concepcion	Lot A-31 and all lots 26, 27,28, and the south 83' of Lot 25 NCB 3975	807 Mission Road
Mission San Jose	3.3 acres out of NCB 7664	701 East Pyron
Mission San Juan	Tract 3, NCB 10933	9101 Graf Road
Mission Espada	P-5, NCB 11173	10040 Espada Road
Espada Aqueduct	The east part of track I-A and the south part of tract 14, NCB 11174	9000 Block of Espada Road
Espada Dam	P-5, NCB 10932	1800 Block of SE Military
Bergs' Mill	The northwest irregular 310' of the south 330" of P-11, NCB 10932	2400 Block of Ashley Road
Municipal Auditorium	NCB 412	100 Auditorium Circle
The Old Ursuline Academy (Southwest School of Art and Craft)	All of NCB 180	300 Augusta Street
Thomas Jefferson High School	NCB 6758 Blk 8 Lot21	723 Donaldson
Navarro Homestead	NCB 13418, Lot 4	228 Laredo Street
Spanish Governors Palace	NCB 117 Lot A-6 and 4	105 Plaza de Armas
Yturri-Edwards Home and Mill	Lot 13, NCB 6305	257 Yellowstone Street
Church of the Little Flower	NCB 2072, Blk 004, Lot 24	906 Kentucky

| Notes and Rules of Interpretation: "P" refers to the parcel number; "NCB" refers to the New City Block number. |

**(b) Zoning process and classification**

- (1) This ordinance authorizes the establishment of viewshed protection districts; however, separate ordinances are required to designate each district. This ordinance also specifies the general purposes of the protection districts and the scope of the standards which the separate ordinances may address. Ordinances designating each viewshed protection district shall identify the designated protection districts and the scope of the standards which the separate ordinances may address.
- (2) Ordinances designating each protection district shall identify the designated viewshed district(s) and specify the individual purposes and standards for that district.
- (3) The Departments of Planning, Public Works, and Building Inspections shall undertake land use and other background studies necessary to designate a viewshed protection district. All property owners within the proposed district and adjacent areas shall be afforded the opportunity to comment on the ordinance regulations.
- (4) The viewshed protection districts are established as overlays to the regular base zoning districts.
- (5) The zoning designation for the viewshed protection district shall consist of a base zone symbol and the viewshed protection district symbol (VP) as a suffix. Viewshed protection districts shall be numbered sequentially to distinguish among different districts, i.e., VP-1, VP-2, etc. and shall be give a specific name, i.e., Alamo Viewshed, Mission Conception Viewshed, etc. along with a number.

**(c) Boundaries**

- (1) To be designated as a viewshed protection district, an area must be located behind a building or site as described in subsection (a) of this Section (Designation Criteria).
- (2) Prior to viewshed designation, a brass disk monument shall be set and named to mark the viewpoint origination. This monument shall be called out in a survey as the instrument in each legal description defining a viewshed. Each monument shall be numbered and named sequentially, i.e., VP-1, VP-2, etc. From the named monument the elevation, horizontal angle, and vertical angle of the viewshed shall be determined. The Viewshed shall be described in the ordinance designating a Viewshed Protection District.
- (3) Using these points, the viewshed shall also define the volume or envelope within which new construction will be allowed. New construction beyond or outside of this envelope that protrudes into the viewshed and obstructs the view of the designated building or site being photographed, filmed, or otherwise enjoyed by visitors to the site shall be limited by this ordinance.
- (4) The viewpoint origination brass disk monument shall also mark the spot where a photograph can be taken at 5.51 feet above the pin (which is the approximate eye level for most adults). The photograph taken at this point represents a protected view.

•

**(d) Development Standards.**

General. Ordinances establishing specific viewshed protection districts shall comply with the requirements addressed in this section subject to the guidelines included herein. In the event of a conflict between the specific protection district and other provisions of this code, the protection district provisions shall prevail.

**(1) Limitation on construction.**

No part of a new structure, sign, tower, roof top equipment or other appurtenance shall be permitted to encroach into any designated viewshed as set forth in this ordinance unless an encroachment is approved in accordance with subsection (2), below. If the maximum height allowed in any zoning district within the city differs from the height permitted by a protection district, the more restrictive height limitation shall apply.

**(2) Nonconforming structures.**

- A. Any structure which presently encroaches into a viewshed protection district which was lawfully authorized by ordinances or regulations existing prior to the effective date of a protection district may continue. However, such encroachments will be encouraged to be removed as part of any remodeling or reconstruction of the structure. In the case of certain focal points that contribute to the historic character and to the quality of the urban design of the city, their removal due to their nonconforming status is not encouraged.
- B. Structures lawfully established prior to the effective date of a protection district may be modified provided that such modification does not cause the structure to encroach into the viewshed to any greater extent in any dimension or configuration, specifically height, width or mass, than the existing structure.
- C. Nonconforming structures may be maintained and repaired as necessary for the safe and efficient operation or use provided that no such maintenance or repair shall cause the structure to encroach into a viewshed to a greater extent in any dimension or configuration, specifically height, width, or mass, than the structure encroached prior to such maintenance and repair.
- D. Whenever a nonconforming structure which does not conform with the provision of this ordinance is destroyed by fire, other calamity or by act of God, its use may be resumed or the structure may be restored provided the restoration is commenced within one year and diligently pursued to completion. The structure after such restoration shall not encroach into a viewshed to a greater extent in any dimension or configuration, specifically height, width, or mass, than the encroachment which existed prior to destruction.

**(e) Public facilities.**

Public agencies shall comply with a viewshed protection district in the siting and design of facilities which are located within or adjacent to a protection district. Utilities are encouraged to be located underground where possible.